

IMMEDIATE RELEASE

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This case arises from personal injuries suffered by the defendant while acting within his employment as a result of an uninsured motorist. The defendant's employer carried uninsured motorist insurance with American Foreign Insurance Company, the plaintiff. The insurance policy authorized an offset for any worker's compensation

benefits paid or payable. The parties agreed to arbitrate the uninsured motorist claim, prior to the defendant completing his worker's compensation claim.

The parties agreed that the arbitrator was to ignore any potential worker's compensation claim and issues of subrogation. When the arbitrator released his first award, he awarded prejudgment interest on the entire damages to the defendant ignoring any rights to offset the award for worker's compensation benefits. On motion by the plaintiff the arbitrator changed the award so that the prejudgment interest would be calculated after the offset from worker's compensation was computed.

The Idaho Supreme Court held that the arbitrator had no authority under the law to modify his first award and that it was error for the district court to not confirm the first award. The Court further determined that the offset provision was valid and consistent with public policy. The insurance company therefore had the right to offset their loss by any amounts legally due the workman by workman's compensation insurance. But, the insurance company could not force the worker to complete the workers compensation claim. On remand the district court can determine whether the defendant breached the insurance contract.